



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/EV/25/0211

Re: Property at AULDTOON FARM COTTAGE, ABINGTON, ML12 6SE (“the Property”)

Parties:

Mr IAN MCGARVA, NETHER ABINGTON FARM, ABINGTON, BIGGAR, ML12 6SE (“the Applicant”)

MR DUNCAN DAVIDSON, AULDTOON FARM COTTAGE, ABINGTON, ML12 6SE (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted.

Background

1. The application submitted on 17 January 2025 sought an eviction order on the basis of Grounds 3 and 11 of the 2016 Act, namely that the landlord intends to refurbish the Property (Ground 3) and breach of the tenancy agreement (Ground 11). Supporting documentation was submitted by the Applicant including a copy of the tenancy agreement, Notice to Leave, some photographs, mainly showing the exterior and surrounds of the Property and two Affidavits from the Applicant, one dated 28 March 2022 in respect of the

Property title and the second dated 3 March 2025 in respect of the grounds of eviction relied upon.

2. Following the lodging of the further supporting documentation, on 3 April 2025, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance in respect of the application in terms of Rule 9 of the Regulations. Papers were served on the Respondent by Sheriff Officer on 31 July 2025, requesting any written representations be lodged. Both parties were notified of the date and other details of the Case Management Discussion (“CMD”) due to take place on 8 September 2025.
3. On 14 August 2025, written representations were lodged by the Respondent, together with some supporting documentation, namely email communications between himself and the Applicant’s solicitor, following the service of the Notice of Leave.
4. On 4 September 2025, further written representations were lodged on behalf of the Applicant, together with some further photographs of both the exterior and interior of the Property, said to have been taken by the Applicant that morning. There was also a video attachment which could not be processed or circulated by the Tribunal, as the prior procedures for lodging video evidence had not been fulfilled. These representations and attachments had, however, also been copied directly to the Respondent at the time of submission to the Tribunal.

Case Management Discussion

5. The CMD took place on 8 September 2025 at 10am by telephone conference call. It was attended by both parties, Mr Ian McGarva, Applicant and Mr Duncan Davidson, Respondent and the Applicant was also represented by his solicitor, Mr Stephen Nicolson of Harper Macleod LLP.
6. Following introductions and introductory comments by the Legal Member, it was ascertained that the application would require to be adjourned to an Evidential Hearing, given the various issues in dispute.
7. There was, however, some brief discussion regarding the various issues in dispute and it appeared to the Tribunal that there was a fairly complicated background to matters, which appeared to have led to the deterioration in relations between the parties. Although, this tenancy was a Private Residential Tenancy which commenced on 1 May 2022, the Respondent’s position is that he and his former partner previously occupied the Property together from around 2015/2016 by virtue of a previous tenancy. The Respondent’s previous partner was an employee of the Applicant and this appeared to be how the previous tenancy had come about. When they separated, she had moved out of the Property into another property owned by the Applicant and this appears to have been when the PRT between the parties was entered into. The Respondent stated that he considers the true motivation behind the eviction application to be that the Applicant wishes to let the Property again to the

Respondent's former partner, who now has a new partner and child and requires a larger property. She is still an employee of the Applicant and, according to the Respondent, she had a discussion with the Respondent in May 2025 which confirmed this intention. The Property has three bedrooms and is a farm cottage on the Applicant's farm where he resides, so the parties appear to live in quite close proximity. The rent is just £50 per calendar month and the rent account is up to date.

8. The Applicant's position is that he wishes to recover the Property to refurbish it and that the proposed works are extensive, such that the Respondent could not continue to reside there whilst the works were being done. The Applicant also claimed the Respondent was in breach of the tenancy agreement, in that he was operating a business from the Property which the Applicant did not consent to and was also failing to maintain the Property in a reasonable condition. It was clarified by Mr Nicolson that only some of the photographs which had been submitted on 4 September 2025 had been taken at that time. Others were taken on previous inspections. He also clarified that the video attachment was really just photographic 'stills'. In addition to the alleged failure to maintain the exterior of the Property, the Applicant had further concerns from the recent inspection regarding the removal of a staircase/part of a staircase and that the oil tank in respect of the heating was empty. The Respondent explained regarding the oil tank and stated that the staircase had been removed in January 2021 and that the Applicant had been fully aware of that. The Respondent's position was that he did run a business from the Property, but that this had been the case since 2016 and that the Applicant had always been aware of this and had, in fact, assisted him in various ways with his business. The Respondent clarified, however, that his business was not registered at the Property and he provided the official address of the business which was elsewhere. He denies failing to maintain the Property and claimed to have carried out various improvements to the Property at his own expense, again in the full knowledge of the Applicant but was not looking to be reimbursed in relation to this.
9. The Respondent clarified that he was contesting the eviction application, on the basis of the grounds being relied upon by the Applicant, both of which he disputes. However, he confirmed that he was seeking alternative accommodation, but had not been able to find anything suitable, as yet.
10. The Legal Member confirmed that the application would require to be adjourned to an Evidential Hearing at which parties and witnesses would have the opportunity to give evidence and the Tribunal would fully consider all documentary evidence lodged. There was some further discussions concerning arrangements for this and it was noted that parties would advise in due course if there was any issue with the date scheduled or the other arrangements. The Legal Member confirmed that the Tribunal would issue a Note on the CMD discussions, together with a Direction in respect of further evidence to be lodged, intended witnesses, etc. Parties were requested to advise the Tribunal should there be any change in parties' positions or resolution of matters meantime, were thanked for their attendance, the CMD concluded and the

application adjourned to an Evidential Hearing to take place in-person at Glasgow Tribunals Centre.

11. Following the CMD, a CMD Note and Direction, both dated 8 September 2025, were issued to parties. The terms of the Direction were as follows:-

“The Tribunal, on its own initiative and for the purpose of making inquiries, gives the following Direction to the Applicant/Respondent as to the conduct and progress of this Application in terms of Section 16 of Schedule 1 to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017:

- 1. The Applicant is required to provide any further documentation in support of their application for eviction, the grounds for eviction being relied upon and in respect of their position as to the reasonableness of the Tribunal granting an eviction order in the particular circumstances of this case; said documentation to include:-*
 - (a) A copy of the previous tenancy agreement between the parties, which commenced in 2015/2016;*
 - (b) Additional evidence tending to show that the Applicant has the intention to refurbish and carry out “significantly disruptive works” to the Property (Ground 3), such as drawings, planning and building warrant applications or permission or any quotes/estimates/contracts with contractors in respect of the proposed works.*
- 2. The Respondent is required to provide any documentation in support of his opposition to the eviction application, the grounds being relied upon by the Applicant and his position as to the reasonableness (or otherwise) of the Tribunal granting an eviction order in the particular circumstances of this case.*
- 3. The Applicant and Respondent are required to provide details of any witnesses that the parties wish to call to give evidence at the Evidential Hearing to be fixed in respect of this application, and to make arrangements for the attendance at the Hearing of any such witnesses;*

The documentation referred to above must be lodged with the Tribunal Administration as soon as possible but no later than 21 days prior to the Evidential Hearing to be fixed in respect of this application.”

12. An in-person Evidential Hearing was subsequently scheduled to take place at Glasgow Tribunals Centre on 21 January 2026, commencing at 10am. Notification of the hearing details was issued to parties by email on 5 December 2025.

13. On 7 January 2026, the Applicant's representative lodged written representations, referring to the Direction. It was explained that the Applicant had been unable to locate the earlier tenancy agreement. Written Submissions were lodged, together with a further Inventory of Productions and it was explained that the Applicant also wished to lodge video evidence of inspections of the Property carried out by the Applicant. A Second Inventory of Productions

index sheet was produced listing a number of photographs and videos. Some email correspondence between the parties dated between 25 August 2025 and 15 December 2025 was also produced. Although the Applicant's representative had copied in the Respondent directly to this email with attachments, the documentation was not picked up by the Tribunal Administration until 20 January 2026 (the day before the hearing) when it was circulated to the Tribunal Members.

14. In the meantime, on 16 January 2026, the Applicant's representative had emailed the Tribunal again, referring again to their wish to lodge video evidence in advance of the hearing. Also submitted was a document described as 'planning proposals' obtained by the Applicant in respect of his proposed renovation of the Property which they sought to lodge late. Again, this documentation had been copied directly to the Respondent on submission, although was not circulated to the Tribunal Members until 20 January 2026. On 20 January 2026, the Tribunal considered the request to lodge video evidence and gave permission for this to be lodged via Objective Connect. The Respondent and the Tribunal Members were granted access to Objective Connect to allow the video evidence to be viewed in advance of the hearing, although the video evidence was only uploaded early in the morning of the hearing.
15. On 16 January 2026, the Respondent had also lodged some further written representations by email, together with some supporting documentation, being an invoice from the Respondent's business dated 31 December 2021 to the Applicant in the sum of £1,418,33 including VAT in respect of labour costs and materials for work on a lambing and other shed; an extract from a bank account of the Respondent showing that the above sum had been paid from a business account of the Applicant on 25 January 2022; and some photographs of a shed, ladders and some building materials. Unfortunately, due to an oversight on the part of the Tribunal Administration, this email and attachments were not picked up or circulated to the Applicant or the Tribunal Members in advance of the Evidential Hearing.

Evidential Hearing

16. The Evidential Hearing took place at Glasgow Tribunals Centre on 21 January 2026, commencing at 10am. Both parties were in attendance. The Applicant was represented by his solicitor, Mr Stephen Nicolson of Harper Macleod LLP.
17. Following introductions and introductory remarks by the Legal Member, it was ascertained that both parties would give evidence themselves but neither party had any other witnesses. There was discussion regarding the further documentation and video evidence lodged on behalf of the Applicant on 7 and 16 January 2026, which the Respondent confirmed he had received. It was noted that the document lodged on 16 January 2026 had been lodged late. It was then ascertained from the Respondent that he had also lodged late documentation which had not been circulated, for which the Legal member

apologised on behalf of the Tribunal Administration. He provided a copy to the Tribunal and the Tribunal Administration/Clerk were able to copy and circulate this documentation by email to the Applicant's representative. Neither party objected to the late evidence being lodged by the other party and accordingly, the Tribunal allowed the documentation concerned to be received late.

18. The Tribunal thereafter heard evidence from both parties, both parties were cross-examined by the other and the Tribunal Members also asked both parties a number of questions. Reference was made throughout to the supporting documentation lodged by the parties, including photographs, and the video-evidence lodged by the Applicant was viewed during the hearing.

Evidence of Applicant – Mr Ian McGarva

19. Mr McGarva gave evidence regarding the background to the Respondent's tenancy. He had been the boyfriend of Ms Blackwood and moved into the cottage with her. She was the sole tenant at that time. The tenancy had never been joint. When they separated, Ms Blackwood had moved out and, rather than having an empty cottage, the Applicant had granted the tenancy to the Respondent in May 2022. The Respondent paid his rent and had initially kept the property nice but the Applicant felt he became lax about that over time. He tried to be decent with the Respondent but the exterior of the property got messier and messier, with debris left lying around from the Respondent's business. The Applicant lives nearby on the farm and would drive past the property most days and notice the condition. He also decided that he would like to extensively refurbish the property. He instructed his solicitors and they served Notice to Leave on the Respondent on 16 October 2024 on the grounds that he wished to refurbish the property and that the Respondent was in breach of the tenancy conditions by operating his business from the property without the Applicant's prior permission and due to the deterioration in the condition of the exterior surrounds of the property. The Applicant's position remains that the Respondent is in breach of the conditions of his tenancy agreement. He has not removed the debris that the Applicant complained about and is still operating his business from the property. The Applicant also thinks that the Respondent is no longer occupying the cottage and made reference to the several inspections he has carried out when he found that the oil-based heating system was not being topped up with oil and that there was no running water. The Applicant still intends to refurbish the property and referred to the document produced by Foote McBride architects very recently which he said was a first draft of planning proposals which were in the very early stages. The Applicant stated that he will be 65 years old this year and is looking to wind down. He does not know what he will do with the cottage. He will possibly rent it out again, rent it out as a holiday let or may even move in himself. He has recently sold another of his properties on the farm.
20. The Applicant's solicitor took him through the tenancy terms which he considered had been breached by the Applicant, namely Clause 7 in respect of running his business without the Applicant's written consent and Clause 17 in respect of not taking reasonable care of the property and the common parts.

Reference was made to the photographs produced, showing debris, including bits of machinery, scattered around outside. The Respondent is supposed to keep the property clean and in good order but has not. The Respondent had not kept the property adequately heated and ventilated. Reference was made to the photographs produced, said to be from January 2025, of the cottage windows frosted over. The oil tank had not been re-filled, which was the Respondent's responsibility. The Applicant was worried about the water pipes freezing in cold weather and causing damage if the cottage was not being properly heated. The Applicant said that the Respondent was previously working as a mobile welder. However, he had started working much more from the property, in one of the sheds which had supposed to be used for storage. There had been a quad bike stored in there which had gone on fire around 2018. The Respondent had initially kept things tidy but this stopped. The Respondent was getting metal deliveries to the property and the Applicant said the heavy vehicles were damaging the access road, which had required to be repaired. The Respondent now had two or three employees working there. The Applicant said he had never granted written permission for the Respondent to operate his business from the property. He conceded that he had initially had no issue with the Respondent working there as he mostly worked away from the property. His girlfriend worked part-time for the Applicant and this was why the rent was so low, at £50 per month. However, when the scale of the Respondent's business increased and he started leaving debris around, the Applicant got fed up and spoke to him about tidying up. The Respondent did not comply with these requests. When the Applicant drives past the property, or visits the property, he often sees the Respondent's employees welding on site.

21. As to the documentation which had been recently lodged by the Respondent, the Applicant confirmed that the Respondent had issued an invoice from his business to the Applicant dated 31 December 2021 in the sum of £1,418.33, which the Applicant had paid in January 2022. The invoice showed the Respondent's business address as his parents' address. The Applicant stated that this invoice was to do with a joint construction project that he and the Respondent worked on in connection with another shed on the Applicant's property. The Applicant confirmed that the photographs produced by the Respondent were of the other shed mentioned previously which was damaged by fire around 2018 and which the Respondent had told him was just being used for storage.
22. The Applicant referred to the visits he had carried out at the property. At the visit at the end of August 2025, he discovered there was no running water. The Respondent was present and told him that he was arranging for a plumber to come out regarding this. The Applicant also noticed that the staircase banister, which he understood was required by law, had been removed without his consent. Other than that, the Applicant confirmed the interior of the house was in reasonable condition. On subsequent visits, the Applicant noticed that there was still no running water and that the oil tank, situated outside the cottage, was empty, which meant that there was no heating or hot water from the boiler. There was a log-burner in the living room but he did not see any evidence that

this was used as there were two bags of rubbish sitting beside it which remained there for several months and the supply of logs for the burner remained static, so they were not being used up. The Applicant said that the Respondent subsequently told him that the issue with the water was his responsibility to fix as the landlord, so the Applicant arranged for his plumber to attend. At the visit on 23 December 2025, it was discovered that there was a leak in the filter and also that the Respondent had replaced the original filter system at some point without the knowledge of the Applicant. The plumber required to order a part to fix this so the issue has still not been resolved. The Applicant does not think that the Respondent has heated the house since around January 2025 when the Applicant photographed the windows all frosted up. He does not think that the Respondent is still living there and that this is why the oil tank is empty and the Respondent had also not bothered about there being no running water. The Applicant sees no signs of the Respondent living there, although he passes by often. He does not see the Respondent or any vehicles around the cottage or any lights on, although there is still an electricity supply. He thinks the two bags of rubbish beside the log-burner in the living room would have melted if the log-burner had been on. The logs which sit outside have not been touched for months. There has been no oil in the tank, or running water, since at least August 2025. The Applicant sees others working and welding at the property during the day, although not every day, and occasionally, he still sees the Respondent there working.

23. The video evidence was viewed at the end of the Applicant's evidence and showed the Applicant attending at the property to carry out various inspections on dates including 28 August 2025, 4 September 2025, 11 September 2025 and 12 December 2025. It was noted from the Respondent that the other male shown in some of the videos was a Mr Hodge, a friend of the Respondent. The Respondent was not present at the visit on 11 September 2025 and stated that the Applicant had had no right to enter that day. Reference was made to the messages exchanged between the Respondent and the Applicant's solicitor regarding the inspection visits. The Applicant stated that he had understood that his solicitor had notified the Respondent regarding the visit on 11 September 2025. Mr Nicolson conceded that this may have been an oversight on his part.

24. The Respondent had no direct questions for the Applicant by way of cross-examination at this stage.

Evidence of Respondent – Mr Duncan Davidson

25. Mr Davidson stated that it was unclear to him why the Applicant would serve notice on him regarding his business activities. His position was that the Applicant had actively encouraged him to give up his employment, in which he had over 10 years' service, and to become self-employed. When he and Ms Blackwood had moved in together, Ms Blackwood already worked for the Applicant. The Applicant had specifically allowed the Respondent to use the old byre building for his business. He and Ms Blackwood had carried out improvement works to the cottage, such as decorating and installing the wood-burner. The rent was agreed at £50 per month probably because of all these

factors. They had a reciprocal type of agreement where Ms Blackwood worked for the Applicant, but the Respondent also carried out work for the Applicant around the farm and both he and Ms Blackwood had some show cattle which they kept. The Respondent worked as a welder/fabricator and said that he was doing welding work at the property from day one, with the full knowledge and encouragement of the Applicant. He always had help alongside him in his business, although these workers are self-employed, rather than the Respondent's employees. There was one full time and one part-time welder, in addition to the Respondent himself, and this is still the case. When he and Ms Blackwood's relationship broke down, she moved out of the property and into another property of the Applicant's nearby. The Respondent agreed to take on the tenancy, on the same terms as previously, and there was no real discussion about this. Things just carried on as normal. The Applicant never voiced any opinion about the tenancy, said that their arrangement was no longer working or complained about the Respondent's maintenance of the property. However, the Applicant did try to become involved in some things to do with the Respondent's separation from Ms Blackwood, such as to do with their show cattle, even though this was nothing to do with him. The Respondent was aware that the Applicant was not happy about certain aspects of their separation and this is what the Respondent felt led to the problems in his relationship with the Applicant and to the Applicant starting to remove some privileges from him. The Respondent maintained that the work side of things was not discussed.

26. As to the debris lying around that the Applicant had referred to, the Respondent stated that this was not junk. It was the property of other people, namely his customers, which was there to be fixed and which the Respondent stored outside. The Respondent had always done this. He accepted that some of these items had been there a long time but explained that he had to prioritise things and had not got round to dealing with it all. He also explained that some of the items, given their size, would require heavy lifting equipment to move them. The Respondent stated that he had always previously had use of the Applicant's tractor but that the Applicant no longer allowed this. The Respondent claimed that he had arranged for some of these items to be taken away and that the Applicant should have seen this when he visited on 23 December 2025. The Applicant disagreed with this and reiterated that he drives past every morning and had not seen any items shown in the photographs lodged having been moved. The Respondent conceded that he had not lodged any photographs to support his position about having now removed some of these items.

27. The Respondent referred to the documents and photographs he had lodged, which he stated related to other areas of the farm. He stated that he has never tried to hide the fact that he was running a business from the Applicant's property. The Applicant himself had used the Respondent's services as has already been shown. The Applicant had previously allowed the Respondent the use of his tractor to move steel around, etc. The fire at the shed that had previously been referred to in 2018 had been caused by a spark from the Respondent's welding equipment, as this is where he used to work. The Applicant was well aware of this and that the shed had not just been used for

storage. Whilst the shed was being rebuilt, the Applicant had allowed the Respondent to use another shed at the farm and an additional shed had subsequently been built adjacent to the cottage to give the Respondent additional space to work. The Respondent disagreed with what the Applicant had said about a joint construction project. He maintained that the Applicant had not assisted with this, other than with providing the use of his tractor. The Respondent had also assisted the Applicant with farming duties.

28. The Respondent denied that it was deliveries to his business which had damaged the access road mentioned by the Applicant. He pointed out that the access road was also used for other farm deliveries and vehicles. The Applicant had, however, subsequently forbidden him from having steel deliveries to his workshop and had obstructed these deliveries so they do not happen any more.
29. As to the oil and water situation, the Respondent mentioned the Applicant's visit to the property on 8 September 2025 as being the first time these matters were mentioned. The Applicant had stated that the photographs showing the windows frosted up had been taken in January 2025. However, the Respondent thinks this was actually January 2026, when he concedes that he was away from the cottage for a period of around 14 days. Other than that, the Respondent maintains that he is still occupying the property, well over half of the time, although accepts that he sometimes stays at his girlfriend's. He stated that he often leaves the cottage early in the morning and returns late at night which may explain why the Applicant does not see him often. The Respondent's position is that the heating, etc was all working in January 2025. He knows this because a pipe at the diesel tank which runs the boiler was broken in a storm in February 2025 and the Respondent paid for this to be connected back up, with no contribution from the Applicant. The Respondent stated that he had not gotten into the habit of filling up the oil tank for heating. The Respondent maintains, however, that he currently uses the log burner for heating and that he has a different store of logs to the one mentioned by the Applicant, which the Respondent keeps in a ruined building at the back of the cottage. The Respondent stated that this store of logs is now nearly finished. The Respondent maintained that there is still a water supply into the property but that the water filter leaks so he turns off the supply. However, he has a method of turning the supply on again when he needs it and then shutting it back off. He explained that there was previously an old type blue water filter but that shortly after he had moved into the cottage, it was realised that there was no working filter there. This meant that the water was not drinkable so he had a plumber come in to fit filters at that time. In August 2025, the Respondent stated that he had turned off the water as he realised the filter was leaking and not working properly. This is why the taps in the kitchen did not work when the Applicant tried them at the first inspection. He was initially going to get the filter fixed again himself but was told subsequently that this is the landlord's responsibility and had informed the Applicant of this. Despite this, the filter had still not been fixed by the Applicant by 23 December 2025.
30. In response to questions from the Tribunal Members, the Respondent stated that he does not really drink tap water. He uses the kettle to boil water if he

needs hot water, there is an electric shower in the cottage and he uses the log burner for heating. He denies not heating the property and pointed to the fact that there have been no burst pipes. He denies that he is not living at the property. He conceded that he has nothing in writing from the Applicant regarding him running his business from the property but did not consider that he needed this, given all the background circumstances. Similarly, he does not think that leaving customer's property outside is a breach of tenancy as there was never any issue with this before. As to the staircase banister, this was removed well before the Respondent's tenancy started. The Respondent stated that he and Ms Blackwood had carried out further renovations to the property around January 2021. They decorated and replaced seven interior doors. There had been a stud partition at the staircase. According to the Respondent, the Applicant had been standing in the hallway and stated that the stud partition should be cut out as it looked a mess. This was therefore well within the Applicant's knowledge and was actually done at his suggestion. The Respondent confirmed that the Applicant had carried out no property inspections previously, until August 2025.

31. As to the renovation eviction ground, the Respondent is not clear about what works the Applicant is actually proposing or why he could not continue living there whilst these works are done. He stated that the Notice to Leave mentioned a proposal to extend the kitchen and bathroom, move a door and create a further upstairs bedroom. However, the plans produced recently seem to be about creation of a sunroom and the Respondent mentioned the lack of detail, costings, etc. He does not consider that this a genuine proposal. He referred again to the discussions he had had with Ms Blackwood in May 2025 that he had mentioned at the CMD when she had asked him when he was moving out as the intention of the Applicant was for her to move back in. She is currently living in a two bedroom cottage elsewhere on the farm, with her new partner and child. She still works for the Applicant. The cottage has three bedrooms. In addition, her pack of sheepdogs, the 'tools' of her work, are still kennelled in close proximity to the cottage. The Respondent does not consider that the Applicant has any true intention to refurbish.
32. The Respondent confirmed that he does have the intention to live somewhere else as the current situation is not good for his business or his sub-contractors. He is looking for a combined property, similar to the current arrangement where he can live but also have his tools and place of work close at hand as he works unsocial hours. He does not wish to live at the Applicant's property long-term and would have moved already if he could find something suitable. He may look to buy his own property but offers he has made so far have been unsuccessful. He stated that it is not always possible to compete with what others are able to pay price-wise.
33. Mr Nicolson then cross-examined the Respondent. The Respondent conceded that he did not have written permission from the Applicant regarding his business but maintained that he had implicit permission from him. He did not agree that he had made a mess of the property but conceded that he had had 15 months since the Notice to Leave was issued in October 2024 to do

something about the items lying around outside but had not done so, for the reasons given. He accepted that the Applicant, as property owner, could rescind permission previously given and take privileges away. He accepted that there were some limits on what his business could do but did not accept that he could not use all of the exterior land around the cottage that he always had, with the Applicant's permission and encouragement. He denied that his business was as a mobile welder and fabricator only as much of the work was not mobile and had always been done on the property. He had always stored items outside his workshop. He did not accept that there had been a greater amount of traffic to his workshop on the property within the past year. Indeed, he stated that there was decreased traffic due to the Applicant no longer allowing his metal deliveries to be made or for him to use the tractor. He denied that he was using property of the Applicant's outwith the boundaries of what his tenancy agreement covered or that the Applicant had raised these issues with him before the Notice to Leave was served. He denied damaging the access road and reiterated that it was a farm track which the Applicant takes his tractor up and down and which other vehicles use too, for example to a mast situated elsewhere on the Applicant's property. He denied that he had gone around things the wrong way and was spoiling the Applicant's quiet enjoyment of his own property. He reiterated his position in respect of the water, heating and banister and denied that he was not occupying the property. He denied that the photographs lodged recently showing the windows at the cottage frosted up had been taken in January 2025 and questioned why these photographs had not been lodged until now. He maintained that the cottage had been heated via the boiler until February 2025 and since then by the log burner and that there was a continuous water supply into the cottage until August 2025 when he had turned it off. He maintained that the Applicant had given permission for the banister to be removed and that it was not the Respondent's responsibility to reinstate this. He does not believe that the Applicant intends to refurbish the property and maintained that he is certain the motivation behind the eviction is so that the Applicant can give the cottage back to Ms Blackwood to live in. He reiterated his reasoning for this belief.

34. Following completion of the evidence, the Tribunal adjourned the application to allow the lodging of updated written submissions on behalf of the Applicant, at the request of his solicitor, within 7 days. The Tribunal verbally directed that the Applicant's submissions be intimated directly to the Respondent on submission to the Tribunal and that the Respondent should lodge any written submissions that he wished to make in response, also within a period of 7 days from the date he received the Applicant's submissions. Both parties were informed that they may request an extension of time, if required. The Tribunal issued a Hearing Note to parties, following the hearing, outlining the above.

Further Procedure

35. On 27 January 2026, the Applicant's representative lodged updated Written Submissions by email, copied directly to the Respondent, as had been requested by the Tribunal. These were detailed in their terms and had been

updated following the hearing, to include further evidence heard at the hearing.

36. On 4 February 2026, the Respondent lodged his Written Submissions, responding to the Applicant's submissions, copied directly to the Applicant's representative, again, as had been requested. Again, the Respondent had updated his submissions in light of evidence heard at the hearing and also in response to the Applicant's updated submissions.
37. By email on 26 March 2026, the Tribunal Administration acknowledged the submissions from both parties submitted following the hearing and explained that the Legal Member had unexpectedly required to take time off and that the issue of the Tribunal's written Decision would accordingly be delayed, for which the Legal Member apologised.
38. The Legal Member has recently returned to work following an extended period of absence.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the sole tenant of the Property by virtue of a Private Residential Tenancy which commenced on 1 May 2022.
3. The Respondent had previously occupied the Property with his former partner since around 2015/2016 until 1 May 2022 by virtue of a previous tenancy.
4. The Respondent's former partner was an employee of the Applicant when the earlier tenancy was entered into and remains an employee of the Applicant.
5. The terms of the earlier tenancy are unknown to the Tribunal but the rent payable in respect of both tenancies was £50 per calendar month.
6. The Property is a three-bedroom cottage, situated on the Applicant's farm Farm.
7. The Respondent's former partner moved out of the Property when their relationship broke down.
8. The Respondent's former partner now resides within another property of the Applicant on Auldtoon Farm with her new partner and child, said property having two bedrooms.
9. The Respondent's six sheepdogs are still kennelled in close proximity to the Property.

10. The Respondent was previously in employment but with the Applicant's assistance, he set up his own business as a welder and fabricator around 2016.
11. The Respondent worked in this capacity both at the Property and away from the Property.
12. The Respondent was permitted to work at the Property in a shed or sheds belonging to the Applicant.
13. The Respondent worked with two other welders who worked with him at the Property and sometimes also has customers attend there.
14. The Respondent previously had the use of the Applicant's tractor in connection with his business.
15. The Respondent previously carried out work for the Applicant in the course of his business, on the Applicant's farm, invoiced the Applicant in respect and was paid by the Applicant in respect of same.
16. The Respondent also previously assisted the Applicant with various farming tasks around the Applicant's farm.
17. The Respondent and his former partner jointly owned show cattle which they kept on the Applicant's farm.
18. The Respondent and his former partner carried out improvements to the Property, including the installation of a wood burner, around 2016, and further improved and decorated the Property around 2021.
19. As part of the 2021 works, the Respondent and his former partner removed a bannister/partition at the internal staircase within the Property, with the knowledge of the Applicant.
20. When the Respondent and his former partner separated in 2022, the Applicant entered into a tenancy agreement with the Respondent in respect of the Property.
21. The rent in respect of the tenancy remained at £50 per calendar month, as per the previous tenancy arrangement.
22. There was little discussion between the parties regarding the terms of the new tenancy and, in particular, the Applicant mentioned no changes in respect of the previous arrangements as regards the Respondent's business.
23. Relations between the parties subsequently deteriorated in part as a result of issues related to the separation of the Respondent and his former partner.

24. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by email and Recorded Delivery post on 16 October 2024, specifying eviction grounds 3 and 11.
25. In respect of ground 3, the Notice to Leave stated simply that the Applicant intended to refurbish the Property.
26. In respect of ground 11, the Notice to Leave alleged breaches of clauses 7 and 17 of the tenancy agreement in respect that the Respondent was allegedly operating a business from the Property without the Applicant's permission and occupying areas of the Applicant's property which did not form part of the tenancy Property (clause 7) and that the Respondent was allegedly failing to take reasonable care of the Property and surrounding area by leaving debris lying around (clause 17).
27. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was 13 January 2025.
28. The Respondent remained in occupation of the Property following expiry of the notice period.
29. The Tribunal application was submitted on 17 January 2025 and relied on both grounds 3 and 11.
30. The refurbishment works proposed by the Applicant in the application included extending the kitchen to allow for an open kitchen/dining area; an extension of the bathroom; created a new door at the side of the Property to increase access; and creation of an extra bedroom upstairs.
31. Prior to the Evidential Hearing, the Applicant sought to allege a further breach of clause 7 of the tenancy agreement in that the Respondent was allegedly not continuing to occupy the Property.
32. The application was opposed in its entirety by the Respondent.
33. The Respondent admitted operating his welding business at the Property but denied that this was a breach of his tenancy agreement.
34. The Respondent has continued to operate his welding business at the shed(s) adjacent to the cottage on the Property.
35. The Respondent has also continued to work away from the Property some of the time, as a 'mobile' welder.
36. The Respondent has continued to have two welders work with him at the shed(s) on the Property and to have customers attend there.

37. The Respondent no longer has use of the Applicant's tractor in connection with his business.
38. The Respondent no longer receives deliveries of steel at the Property as the Applicant no longer permits this.
39. Other vehicles, including farm vehicles, still use the access road to the Property.
40. The Respondent has left items of equipment and property related to his business on ground surrounding the exterior of the Property.
41. The Applicant has called upon the Respondent to remove said items and tidy up the exterior of the Property since at least October 2024, when Notice to Leave was served.
42. The Respondent had failed to remove any of said items by the end of 2025.
43. The Respondent had still failed to remove at least some of said items by the date of the Evidential Hearing.
44. The Applicant passes by the Property frequently as it is situated on his farm.
45. The Applicant carried out inspections at the Property on 28 August 2025, 11 September 2025, 12 December 2025 and 23 December 2025 when he gained access to the interior of the Property.
46. Said inspections were by prior arrangement, arranged between the Applicant's solicitor and the Respondent, other than the inspection on 11 September 2025.
47. The Respondent was present at all inspections other than the one on 11 September 2025, of which he had not been notified.
48. The Applicant tried the taps in the kitchen on each of the inspection visits and found there to be no running water into the Property.
49. The Respondent admitted having turned off the water supply to the Property since at least August 2025, due to an issue with the water filter.
50. The Respondent initially indicated to the Applicant that he would arrange to have the water filter fixed but subsequently stated that this was the Applicant's responsibility.
51. The Applicant has now instructed a plumber in this regard but, as at the date of the Evidential Hearing, this issue remained unresolved.
52. The Applicant found the oil tank in respect of the boiler to be empty at each of the inspection visits.

53. The Respondent admitted having failed to re-fill the oil tank in the months prior to August 2025.
54. The Applicant admitted that he sometimes stayed away from the Property at his girlfriend's house.
55. The Applicant had instructed an architect just prior to the Evidential Hearing to provide a drawing in respect of planning proposals said to be in respect of "Erection of Single Storey Side Extension and Internal Alteration", indicating the addition of a "Sun Room" at the side of the Property.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and initial supporting documentation, the Respondent's written representations in response to the application, the further written representations, submissions and documentary evidence produced in response to the Tribunal's Direction by both parties in advance of the Evidential Hearing, the video evidence produced by the Applicant, the oral evidence of both parties at the Evidential Hearing and the further written submissions lodged by both parties following the hearing.
2. The Tribunal found that the application was technically in order, that a Notice to Leave in proper form and giving the correct period of notice had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.
3. The Tribunal considered the grounds of eviction relied upon in this application, namely Grounds 3 and 11 which are as follows:-

"Landlord intends to refurbish

3(1)It is an eviction ground that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property.

(2)The First-tier Tribunal may find that the eviction ground named by sub-paragraph (1) applies if—

(a)the landlord intends to refurbish the let property (or any premises of which the let property forms part),

(b)the landlord is entitled to do so,

(c)it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment intended by the landlord, and

(d)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3)Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(a) includes (for example)—

(a)any planning permission which the intended refurbishment would require,

(b)a contract between the landlord and an architect or a builder which concerns the intended refurbishment."

“Breach of tenancy agreement

11(1)It is an eviction ground that the tenant has failed to comply with an obligation under the tenancy.

(2)The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

(a)the tenant has failed to comply with a term of the tenancy, and

(b)the Tribunal considers it to be reasonable to issue an eviction order on account of that fact.

(3)The reference in sub-paragraph (2) to a term of the tenancy does not include the term under which the tenant is required to pay rent.”

4. The Tribunal did not consider that Ground 3 had been established by the Applicant. The Applicant's evidence was not consistent in this regard. No detail had been provided in the Notice to Leave of the proposed refurbishment and no evidence provided with the initial application to the Tribunal *“tending to show that the landlord has the intention....”* as required by the legislation. In response to a request for further information by the Tribunal, an Affidavit was produced from the Applicant dated 3 March 2025 which did contain sufficient detail of the proposed refurbishment (as detailed in finding-in-fact 30 above) to allow the application to be accepted. At the CMD, it was identified by the Tribunal that they would require further evidence with regard to the refurbishment and requested same in terms of its Direction dated 8 September 2026 which required the Applicant to lodge, at least 21 days before the Evidential Hearing:-

“Additional evidence tending to show that the Applicant has the intention to refurbish and carry out “significantly disruptive works” to the Property (Ground 3), such as drawings, planning and building warrant applications or permission or any quotes/estimates/contracts with contractors in respect of the proposed works.”

However, as was pointed out by the Respondent in his submissions, all that was provided by the Applicant in response to the Direction was an undated single page of drawings produced by an architect which appeared to be in draft form and involve a single-storey side extension proposed to the Property and to involve the addition of a ‘sun-room’. No detail was given as to internal alterations which were stated on the drawings to be proposed, nor any evidence contained therein that these were to be *“significantly disruptive works”* as is required in terms of the wording of Ground 3 in the legislation. This document was lodged late on 16 January 2026, five days before the Evidential Hearing and it was admitted by the Applicant in his oral evidence at the hearing that the architect firm had only very recently been instructed by him and that the planning proposals were in their very early stages. The Tribunal considered the Applicant's evidence with regard to the proposed refurbishment to be contradictory and rather vague. He appeared to be stating that the proposed works had been formulated in his mind only when the Notice to Leave was served. The Tribunal's view of his evidence was that he had still not really decided what to do with the Property. This, in the Tribunal's view, fell short of

what was required in order to satisfy Ground 3. The Tribunal was left with the impression that Ground 3 had been included in the eviction process, more as an afterthought or 'fall-back' position.

5. Ground 11 was then considered by the Tribunal. Various breaches of the tenancy agreement by the Respondent were alleged:-

Clause 7 – Occupation and Use of the Let Property

Clause 7 stated that the Tenant *"must obtain the Landlord's written permission before carrying out any trade, business or profession there"*. Much evidence was given regarding this issue by both parties. The Respondent admitted from the outset of these proceedings that he was operating his welding and fabricating business from a shed(s) adjacent to the cottage on the Property, although his registered 'business address' remained elsewhere. Whilst the Tribunal found that there had been a 'technical breach' of the terms of clause 7 by the Respondent, in that he admittedly did not have the Applicant's written permission to operate his business there, the Tribunal did consider the evidence of the Respondent in this matter to be more persuasive in many respects. The Tribunal accepted his evidence of the good relationship he had previously had with the Applicant, the reciprocal arrangements which had operated between them and the background to the Respondent setting up his own business at the Property, with the assistance and encouragement of the Applicant. The Tribunal accepted the Respondent's position that he had the implicit consent of the Applicant to continue operating his business at the Property in respect of this tenancy. If the Applicant had wished to make changes in this regard, this should have been reflected in the tenancy agreement he entered into with the Respondent in 2022. It was apparent to the Tribunal that relations between the parties had only soured at some point after they had entered into this tenancy. The Tribunal considered the rental remaining at £50 per calendar month to be a significant factor in this regard. The fact that it remained so low for a property of this nature, almost a 'nominal' rent, supported the Respondent's evidence that he had no reason to believe that the existing arrangements and understanding between the parties was to change. Nor was the Tribunal persuaded by the Applicant's evidence that the nature or extent of the Respondent's business had changed in the meantime, such that any implicit consent had been withdrawn. In these circumstances, despite finding that there had been a technical breach of clause 7, the Tribunal did not consider it reasonable to grant an eviction order on account of that fact.

Clause 7 also states that *"The Tenant agrees to continue to occupy the Let Property as his...home"*. This alleged breach was added at a later stage of the Tribunal proceedings and was permitted by the Tribunal as an amendment to the original application as it was added as an extension to the existing Ground 11 and was based on information which had come to light only after the Tribunal application was underway. Again, much evidence was led on this issue by both parties. The Applicant's position was that he believed that the Respondent had not been occupying the cottage since at least August 2025, and probably longer. He pointed to the evidence about the lack of running/drinking water into the cottage; the lack of heating and hot water from the oil-fuelled boiler due to

the tank being empty; the lack of evidence of the log burner within the cottage being used for heating; the photographs showing the windows frosted up; and the lack of sightings of the Respondent around the cottage itself. The Respondent denied this and claimed to live in the cottage more than half the time, although he admitted to being absent from the cottage for periods due to his work and staying with his girlfriend. He provided alternative explanations as to how he could get the water supply running periodically, not drinking the tap water, boiling the kettle for hot water, there being an electric shower in the cottage, using the log burner for heating, using wood from an alternative stock stored elsewhere, the lack of frozen pipes and when he believed the photographs of the frosted windows were taken. The Tribunal had viewed the video evidence of some of the inspections which had taken place and the photographs produced by the Applicant. The Tribunal noted that the Respondent had not lodged any evidence of his own supporting his evidence that he was still occupying the cottage. This was an unusual case in that it was not alleged by the Applicant that the Respondent had completely abandoned the Property. The Applicant admitted having seen him sometimes around the Property, at the shed(s) from where the Respondent's business operated. However, having weighed the evidence of both parties in this regard, the Tribunal found, on the balance of probabilities, that the Respondent was no longer occupying the Property as his "*home*" in terms of clause 7. The Tribunal did not consider the cottage to look particularly 'lived in' in the video evidence of the inspections. The Tribunal was of the view that the Respondent likely went in and out of the cottage fairly regularly but was likely now living elsewhere. The rent he was paying was extremely low and the Tribunal understood the convenience of him retaining the Property for use as his business premises. The Respondent conceded that he was having difficulty sourcing a suitable alternative 'dual-use' property. However, the Respondent had been aware since at least October 2024, when Notice to Leave was served, that the Applicant wished to recover possession of the Property. The Tribunal considered it reasonable for the Applicant to wish to recover the Property where the Respondent had a Private Residential Tenancy only but appeared to be no longer occupying the Property for residential purposes. The Tribunal, having found this alleged breach of clause 7 established, also considered it reasonable to grant an eviction order on account of this fact.

Clause 17 – Reasonable Care

Clause 17 states that "*The Tenant agrees to take reasonable care of the Let Property and any common parts*", including keeping the property "*adequately heated and ventilated*", preventing "*water pipes freezing in cold weather*" and ensuring that "*the Let Property and its fixtures and fittings are kept clean during the tenancy*". Both the Notice to Leave and the original application relied on the 'debris' that the Respondent had allegedly left around the Property and surrounding areas which did not form part of the tenancy property. Again, it was only later in the application that the Applicant alleged that the Respondent was not adequately heating the Property, that there was a risk of burst pipes and that the Respondent had removed a banister/partition at the staircase and that constituted a health and safety risk. The Tribunal was not satisfied that the

photographs of the windows of the cottage frosted up had been taken in January 2025 so was not persuaded that it had been established that the Respondent had not adequately heated the Property since then. The Tribunal tends to agree with the Respondent who queried why these photographs were not produced earlier than just before the Evidential Hearing and why the original application made no mention of this matter. There was no evidence of there having been any frozen pipes, as conceded by the Applicant. Likewise, the Tribunal preferred the evidence of the Respondent regarding the removal of the banister/partition and were persuaded that this had been done before the commencement of the Respondent's tenancy and with the knowledge of the Applicant. However, as to the debris, the Tribunal was satisfied that this constituted a breach of Clause 17. There was no denial by the Respondent that he had left these items around the Property. Whilst the Tribunal accepted the evidence of the Respondent that the Applicant had previously not had an issue with the way that the Respondent operated his business, including leaving items of machinery he was working on around the exterior of the Property, the Tribunal was not persuaded by the Respondent's explanation as to why he had made no attempt to clear these items or tidy up the surrounds of the Property. As was submitted on behalf of the Applicant, the Respondent could have been in no doubt that the situation was no longer acceptable to the Applicant, at least from October 2024 when the Notice to Leave was served, attaching photographs of the debris referred to. The Tribunal was not persuaded by the Respondent's explanation for his failure to remove these items and it made no difference, in the Tribunal's view, whether these items belonged to customers of the Respondent and were still waiting to be worked upon or not. The Respondent stated in his evidence at the hearing that he had recently taken steps to remove some of the items shown in the photographs. This was disputed by the Applicant. Again, the Tribunal noted that the Respondent had not produced photographs or other evidence that any of these items had been removed. The Respondent was aware that this was the main basis for eviction Ground 11 being relied upon by the Applicant. The Tribunal considered that such evidence would have been helpful to the Respondent in demonstrating his goodwill in the matter and thereby may have had more of a bearing on the Tribunal's reasonableness considerations. As it was, the Tribunal found Ground 11 to have been established by the Applicant with regard to the debris and also considered it reasonable to grant an eviction order on account of that fact.

6. In summary, the Tribunal determined that eviction Ground 3 had not been established by the Applicant but that Ground 11 had been established. The Tribunal determined that the Respondent had failed to comply with certain elements of both Clauses 7 and 17 of the tenancy agreement and that, in all the circumstances, it was reasonable for an eviction order to be granted on Ground 11, all as detailed above.
7. The Tribunal's decision was unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.



Legal Member/Chair

28 July 2026
Date